

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 LANCE E. SPEAKE,

5 Plaintiff,

6 v.

7 HIGH DESERT STATE PRISON,

8 Defendant.

Case No. 2:11-cv-01653-GMN-PAL

MINUTES OF PROCEEDINGS

Dated: June 4, 2015

9 **PRESENT:** THE HONORABLE PEGGY A. LEEN, United States Magistrate Judge

10 **JUDICIAL ASSISTANT:** Teresa Hoskin

RECORDER/TAPE #: None

11 **PLAINTIFF:** In Proper Person

12 **COUNSEL FOR DEFENDANT(S):** Benjamin Johnson

13 **PROCEEDING:** Settlement Conference – Telephonic status check

14 A telephonic status check was conducted commencing at 10:30 a.m.

15 The parties reported that Mr. Speake was seen by the outside audiologist May 27, 2015
16 and refitted with new ear molds. Mr. Speake reports that the right ear mold fits properly,
17 however, the left ear mold is still painful. The outside provider reported that his prior problems
18 with the hearing aid were because Mr. Speake had inserted the wrong hearing aid in the wrong
19 ear and this was corrected. However, Mr. Speake indicates that although they are working, they
20 need to be adjusted.

21 Mr. Johnson reported that NDOC's \$500.00 contribution to the monetary settlement has
22 been deposited in Mr. Speake's inmate trust account. The State Tort Fund has processed their
23 portion of settlement proceeds which were expected to be deposited in Mr. Speake's inmate trust
24 account by the end of this week.

25 The court addressed the issues raised in Mr. Speake's Motion to Reopen (Dkt.# 50). Mr.
26 Speake was also concerned because the audiologist told him he should keep his old hearing aid
27 as a backup in case his new ones required maintenance or repair, however, the corrections
28 officers took it away. Mr. Johnson stated that it was his understanding the hearing aid was

1 removed from Mr. Speake's cell for safekeeping, but was being kept for future use. He did not
2 feel it would be a problem if the court wanted it returned. As the settlement requires NDOC to
3 comply with the recommendation of the outside medical provider and there is no dispute that the
4 provider recommended that Mr. Speake keep the old hearing aid, the court will order NDOC to
5 return it to Mr. Speake.

6 Mr. Speake also addressed the fact that he is in the "hole" which he understands is
7 disciplinary confinement. Mr. Johnson indicated that Mr. Speake is in administrative
8 segregation at HDSP and has not been assigned a housing unit because he is only at the
9 institution temporarily to address his hearing issues pending return to NNCC. The court
10 reminded counsel that the warden present at the settlement conference indicated Mr. Speake had
11 only been transferred to the northern Nevada facility because of his medical/hearing needs and
12 that he would otherwise have been housed in southern Nevada. Mr. Johnson recalled this
13 discussion.

14 The settlement conference concluded at 10:41 a.m.

15 **IT IS ORDERED:**

- 16 1. NDOC shall immediately return Mr. Speake's old hearing aid to him;
- 17 2. The Attorney General shall make necessary arrangements through NDOC
18 medical to have Mr. Speake seen for another visit to the outside audiologist to
19 address the still painful ear mold and his issue with adjustment of the hearing
20 aids;
- 21 3. The Attorney shall immediately investigate Mr. Speake's housing situation in
22 light of the representation made at the settlement conference that Mr. Speake
23 was only sent to northern Nevada to address his medical issues and that he
24 would otherwise be housed in southern Nevada;
- 25 4. The Attorney General shall have until June 11, 2015, to file a status report on
26 compliance with the provisions of this order;
- 27 5. The Motion to Reopen (Dkt #50) is **GRANTED** to the limited extent the court
28 addressed Mr. Speake's concerns. The parties are reminded that the case was

1 closed for administrative purposes only, and the case remains pending before
2 the court until dismissed.

3 6. A status hearing will be set after the Attorney General files the status report.
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6 PEGGY A. TEEN
UNITED STATES MAGISTRATE JUDGE